IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

WP(C).No. 34142 OF 2006(M)

PETITIONER:

M/S. GLAXO SMITHKLINE PHARMACEUTICALS
LTD., (FORMERLY M/S. GLAXO INDIA LTD.),
33/144A, B & C, NEDUMKALLEL ESTATE,
CIVIL LINE ROAD, ALINCHUVADU, COCHIN-24,
REPRESENTED BY IT'S MANAGER P.K.NARAYANA SWAMY.

BY ADV. SMT.K.LATHA.

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO THE GOVT. OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.

3. INSPECTING ASST. COMMISSIONER,
COMMERCIAL TAXES, KAKKANAD, ERNAKULAM.

GOVT. PLEADER SRI. M.A. FAYAZ.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 34142 OF 2006

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DATED THIS, THE 21ST DAY OF DECEMBER, 2006.

J U D G M E N T

Petitioner is aggrieved by Ext.P4 order of the Deputy Commissioner of Appeals, by which he is directed to remit Rs. 30,00,000/- on or before 30.12.2006 and to furnish security to the balance tax due as a condition for granting stay. It is the contention of the petitioner that the assessing authority has estimated the turnover adding 100% for probable omission and suppression. Though a prima facie case was made out to the satisfaction of the appellate authority, as is seen from Ext.P4, the appellate authority still thought it fit to impose a condition as above for granting stay. It is contended by the petitioner that the order is passed in a mechanical way .

2. Having heard both sides, I think that in the factual situation, a slight modification of the order by the Deputy Commissioner is necessary in the larger interest of justice. Accordingly, there will be a direction that in case petitioner pays an amount of Rs. 20,00,000/- (Twenty lakhs) on or before 15.1.2007, and furnishes security for the balance amount as directed in Ext.P4, recovery of the balance amount as per the order impugned in appeal will stand stayed until disposal of the appeal by the appellate authority.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

knc/-